

Ex. NN

KIMBERLY J. DEL GRECO
JOE HOLCOMBE vs UNITED STATES

November 21, 2019

1

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF TEXAS

3 SAN ANTONIO DIVISION

4
5
6 JOE HOLCOMBE, et al.) NO. 5:18-CV-00555-XR

7 Plaintiffs) (Consolidated cases)

8 -vs-)

9 UNITED STATES OF)

10 AMERICA)

11 Defendant)

12
13
14 Videotaped Deposition of Kimberly J. Del Greco

15 Washington, DC

16 Thursday, November 21, 2019

17 11:55 a.m.

18
19 Job No: J4693104

20 Pages: 1-201

21 Reported by: Kenneth Norris

KIMBERLY J. DEL GRECO
JOE HOLCOMBE vs UNITED STATES

November 21, 2019
140

1 question 11(c); "Have you ever been convicted in any
2 Court of a felony or any other crime for which the
3 judge could have imprisoned you for more than
4 one year?"

5 How did Mr. Kelly respond?

6 MR. STERN: Objection, form.

7 THE WITNESS: He checked no on the form.

8 BY MR. STERN:

9 Q. As you've now come to learn, was Devin Kelly
10 -- had Devin Kelly been convicted of a felony or a
11 crime for which the judge could have imprisoned him
12 for more than one year?

13 A. Yes.

14 Q. So did Kelly provide false information in
15 answering 11(c)?

16 A. Yes, he did.

17 Q. Had Kelly provided truthful answers to
18 11(c), would he have been permitted to purchase an AR
19 556?

20 A. The FFLs prohibited from even initiating the
21 call with the NICS.

22 Q. What do you mean by that? If he marked yes,

KIMBERLY J. DEL GRECO
JOE HOLCOMBE vs UNITED STATES

November 21, 2019

141

1 would they have been allowed to proceed with the sale?

2 I'm sorry. You're suggesting that the FFL
3 would not have even contacted the FBI to initiate a
4 background check, correct?

5 A. That's correct.

6 Q. It would have been a denial immediately
7 because he was prohibited under the question of 11(c)?

8 A. That's correct.

9 Q. Same with question 11(i); "Have you ever
10 been convicted in any Court of a misdemeanor crime of
11 domestic violence." How did Mr. Kelly answer that
12 question?

13 A. He checked the box no.

14 Q. As you've now come to learn, was Mr. Kelly
15 convicted in a Court of -- in a Court of a misdemeanor
16 crime of domestic violence?

17 A. Yes.

18 Q. So Kelly -- did Mr. Kelly provide false
19 information in answering 11(i)?

20 A. Yes, he did.

21 Q. Same question with regard to 11(c). If he
22 had provided truthful answers to that question, would

KIMBERLY J. DEL GRECO
JOE HOLCOMBE vs UNITED STATES

November 21, 2019
147

1 -- of an interview without an arrest, would you expect
2 this form to be submitted into Triple I?

3 A. No.

4 Q. Is an arrest in and of itself a prohibited
5 event -- a prohibitor under 922(g), offenses?

6 A. No.

7 Q. Let me ask that again because it was a
8 terribly phrased question.

9 Is an arrest an offense in and of itself
10 that is prohibited from an individual purchasing a
11 firearm under the Gun Control Act?

12 A. The arrest, no.

13 Q. In a final disposition form, if a component
14 of the armed forces submits a disposition form that
15 denotes an UCMJ violation, would that suffice to
16 trigger an automatic denial?

17 A. It would not.

18 Q. Why not?

19 A. The NICS examiner has to research all of the
20 elements of the final disposition in order to
21 determine maximum conviction. If it's a misdemeanor
22 crime of domestic violence, they would have to look at